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Meeting of States Parties

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Report of the eleventh Meeting of States Parties

Prepared by the Secretariat

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I. Introduction

1. The eleventh Meeting of States Parties to the United Nations Convention on the Law of the Sea was convened at United Nations Headquarters from 14 to 18 May 2001, in accordance with article 319, paragraph 2 (e), of the Convention and the decision taken by the General Assembly at its fifty-fifth session (resolution 55/7, para. 6).

2. Although the tenth Meeting of States Parties had decided that the eleventh Meeting would be held from 7 to 11 May 2001 (SPLOS/60, para. 85), subsequent to that decision, with a view to accommodating the ninth session of the Commission on Sustainable Development to be followed by the second meeting of the Consultative Process, the General Assembly at its fifty-fifth session decided that the eleventh Meeting of States Parties would be convened from 14 to 18 May 2001.

3. Pursuant to that decision and in accordance with rule 5 of the Rules of Procedure for Meetings of States Parties (SPLOS/2/Rev.3), invitations to participate in the Meeting were addressed by the Secretary-General of the United Nations to all States Parties to the Convention. Invitations were also addressed to observers in conformity with rule 18 of the Rules of Procedure (SPLOS/2/Rev.3/Add.1), including to the President and the Registrar of the International Tribunal for the Law of the Sea and the Secretary-General of the International Seabed Authority.

4. In addition to a number of relevant documents from previous Meetings, the following documents were before the Meeting:

- Rules of Procedure for Meetings of States Parties (SPLOS/2/Rev.3 and SPLOS/2/Rev.3/Add.1);
- Report of the tenth Meeting of States Parties (SPLOS/60 and Corr.1);
- Provisional agenda (SPLOS/L.19);
- Annual report of the International Tribunal for the Law of the Sea for 2000 (SPLOS/63);
- Draft budget proposals of the International Tribunal for the Law of the Sea for 2002 (SPLOS/WP.13);
- Level of compensation for judges ad hoc (SPLOS/WP.15);
- Report of the External Auditors for the financial year 1999, with financial statements of the International Tribunal for the Law of the Sea as at 31 December 1999 (SPLOS/53);
- Issues with respect to article 4 of Annex II to the United Nations Convention on the Law of the Sea (SPLOS/64);
- Notes verbales from the Government of Seychelles regarding the extension of the time period for submission to the Commission on the Limits of the Continental Shelf (SPLOS/66);
- Position paper on the time frame for submissions to the Commission on the Limits of the Continental Shelf. Submitted by Australia, Fiji, Marshall Islands, Micronesia (Federated States of), Nauru, New Zealand, Papua New Guinea, Samoa, Solomon Islands, Tonga and Vanuatu (SPLOS/67);
- Letter dated 30 April 2001 from the Chairman of the Commission on the Limits of the Continental Shelf addressed to the President of the eleventh Meeting of States Parties (SPLOS/65);
- Financial Regulations of the Tribunal (SPLOS/WP.14 and Corr.1);
- Germany: Proposals relating to the Financial Regulations of the Tribunal (SPLOS/CRP.27);
- European Community, Germany and Japan: Proposal relating to the Financial Regulations of the Tribunal (SPLOS/CRP.28);
- United Kingdom of Great Britain and Northern Ireland: Proposals relating to the Rules of Procedure for Meetings of States Parties (SPLOS/CRP.20/Rev.1);
- Germany: Proposal relating to the Rules of Procedure for Meetings of States Parties (SPLOS/CRP.26).

II. Organization of work

A. Opening of the eleventh Meeting of States Parties and election of officers

5. The eleventh Meeting of States Parties was opened by the President of the tenth Meeting, Ambassador Peter D. Donigi (Papua New Guinea).

6. The Meeting elected by acclamation Ambassador Cristián Maquieira (Chile) as President of the eleventh Meeting of States Parties.

7. The Meeting also elected the representatives of Australia, India and Nigeria as Vice-Presidents.

B. Introductory statement by the President

8. In his opening statement, the President extended his welcome to all States Parties, particularly to Nicaragua, Maldives and Luxembourg, which he noted had become Parties to the Convention since the last Meeting of States Parties, bringing the total number of Parties to 135. He asserted that States had to remain committed to reaching the common objective of universal participation in the Convention.

9. He noted that since the States Parties last met, three cases had been submitted to the International Tribunal for the Law of the Sea. Furthermore, the International Seabed Authority had signed 15-year contracts for exploration for polymetallic nodules with three of the seven registered pioneer investors, while the Commission on the Limits of the Continental Shelf was ready to receive submissions from coastal States on the delineation of their continental shelf beyond 200 nautical miles.

10. The President recalled that following the recommendations made at the tenth Meeting of States Parties, the General Assembly, at its fifty-fifth session, had approved the establishment of three voluntary trust funds. He noted that all the funds had been established by the Secretary-General and were now operational.

11. He outlined the programme of work of the eleventh Meeting. The Meeting would elect one member of the International Tribunal for the Law of the Sea to serve the remainder of the term of Judge Lihai Zhao of China, who had passed away in October 2000. It would also examine the proposed budget of the Tribunal for 2002. In addition, it would consider the annual report of the Tribunal as well as the report of the External Auditors. Thereafter, the Meeting would consider the Financial Regulations of the Tribunal, as well as proposals to amend the Rules of Procedure for Meetings of States Parties, including a proposal providing for the establishment of a finance committee.

12. The Meeting would continue the consideration of the role of the Meeting of States Parties in the implementation of the United Nations Convention on the Law of the Sea. The President recalled that Chile had submitted a proposal in that respect.

13. The Meeting would also examine issues related to article 4 of Annex II to the United Nations Convention on the Law of the Sea. The President noted that at the tenth Meeting delegations had expressed general support for the concerns voiced regarding the difficulty experienced by States, particularly developing countries, in complying with the time limit outlined in that article.

14. The President stated that the Meeting would invite the Chairman of the Commission on the Limits of the Continental Shelf, Yuri Kazmin, to report on the progress of work in the Commission. In that context, he recalled that the Chairman of the Commission, in a letter to the President of the Meeting of States Parties, had addressed the question of training, particularly the ways training could be organized to assist developing States in preparing their submissions to the Commission.

15. The Secretary-General of the International Seabed Authority, Satya Nandan, would also be invited to report on the activities of the Authority, the President stated.

16. Following the statement by the President, one delegation made a general statement on matters related to the law of the sea. He observed that universal participation in the Convention remained the ultimate goal and stressed the need for States to enact the necessary legislation to ensure the effective and uniform implementation of the provisions of the Convention. He underlined the vital role of the institutions established by the Convention.

C. Adoption of the agenda and organization of work

17. The Meeting considered the provisional agenda for the eleventh Meeting (SPLOS/L.19). The agenda as adopted is contained in document SPLOS/68.

III. Report of the Credentials Committee

18. The Meeting of States Parties appointed a Credentials Committee consisting of the following members: China, Indonesia, Monaco, Romania, Sierra

Leone, Sudan, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland and Uruguay.

19. The Credentials Committee held two meetings, on 15 and 16 May 2001. The Committee elected Ferry Adamhar (Indonesia) as Chairman. At its meetings, the Committee examined the credentials of representatives to the eleventh Meeting of States Parties. It accepted the credentials submitted by the representatives of 94 States Parties to the Convention, including the European Community. On 16 May 2001, the Meeting of States Parties approved the report of the Committee (SPLOS/69 and Add.1).

IV. Matters related to the International Tribunal for the Law of the Sea

A. Annual report of the Tribunal

20. The annual report of the International Tribunal for the Law of the Sea, covering the calendar year 2000 (SPLOS/63), was submitted to the Meeting of States Parties under rule 6, paragraph 3 (d), of the Rules of Procedure for Meetings of States Parties.

21. In his introductory statement, the President of the Tribunal, Judge P. Chandrasekhara Rao, at the outset informed the Meeting that the Registrar of the Tribunal, Gritakumar Chitty, had tendered his resignation with effect from 1 July 2001.

22. Turning to the work of the Tribunal, he recalled that during 2000 the Tribunal had delivered judgments in two cases: the "Camouco" case between Panama and France; and the "Monte Confurco" case between Seychelles and France. More recently, on 20 April 2001, the Tribunal had delivered its judgment in the "Grand Prince" case between Belize and France. Further, at the request of Chile and the European Community, the Tribunal had formed a special chamber under article 15, paragraph 2, of its Statute (annex VI to the Convention) to hear a dispute concerning the conservation and sustainable exploitation of swordfish stocks in the South-eastern Pacific Ocean.

23. The President noted that judgments in all cases decided by the Tribunal had been delivered within remarkably short periods, adding that the Tribunal made special efforts to make that possible in view of the need to settle international disputes expeditiously. However, parties to prompt release proceedings under article 292 of the Convention had underlined the difficulties they faced in complying with the time limits fixed in the Rules of the Tribunal for the filing of written statements by both parties before the commencement of oral proceedings. In that context, the Tribunal had reviewed its Rules in the light of the experience gained, and on 15 March 2001, it had amended articles 111 and 112 of its Rules, extending the time period allocated for the disposal of an application made under article 292 of the Convention from 21 to 30 days.

24. During the two administrative sessions held in 2000, the Tribunal had discussed, among other things, issues that had a direct bearing on its judicial work, such as costs to be borne by parties in judicial proceedings, bonds or other financial securities to be furnished by parties and time factors in the handling of cases. The Tribunal also considered administrative matters such as budget proposals, budget performance, audit report, staff regulations and rules, recruitment of staff, instructions for the Registry, buildings and electronic systems, and library facilities.

25. The President of the Tribunal recalled that the official opening of the permanent headquarters of the Tribunal had taken place on 3 July 2000 in a ceremony attended by the Secretary-General of the United Nations, as well as by the President of the tenth Meeting of States Parties. On behalf of the Tribunal, he expressed its deep appreciation to the Government of Germany for making the new building available to the Tribunal, which he noted had also served recently as a centre for several international conferences on matters concerning the law of the sea.

26. The President noted that the Tribunal and the Government of Germany had, on 18 October 2000, concluded an Agreement on the Occupancy and Use of the Premises of the Tribunal. With regard to the finalization of the Headquarters Agreement between the Tribunal and Germany, he hoped that the outstanding issues would soon be resolved in a spirit of good will and accommodation. He also noted that the Agreement on the Privileges and Immunities of the Tribunal had not yet entered into force, although it had been adopted nearly four years ago. The President recalled that the General Assembly had called upon States to consider ratifying or acceding to the Agreement.

27. He drew the attention of the States Parties to communications received with respect to the judgment of the Tribunal in the M/V "Saiga" (No. 2) case. In drawing attention to those communications, the Tribunal was not expressing any view with regard to their contents. In that context, he referred to General Assembly resolution 55/7 of 30 October 2000, in paragraph 8 of which the Assembly had recalled the obligations of parties to cases before a court or a tribunal referred to in article 287 of the Convention to ensure prompt compliance with the decisions rendered by such court or tribunal.

28. Delegations expressed their appreciation to the President and the Tribunal for the annual report. Some emphasized the vital role of the Tribunal in resolving disputes regarding the application and interpretation of the United Nations Convention on the Law of the Sea.

29. Many delegations expressed their regret at the resignation of the Registrar, Gritakumar Chitty, and expressed their appreciation for his valuable contribution to the law of the sea and in particular to the establishment and the commencement of functioning of the Tribunal. The need to have the next Registrar elected from a broad range of candidates, as well as the need for transparency in the election process, were emphasized by some delegations.

30. The Meeting took note, with appreciation, of the report of the Tribunal.

B. Budget of the Tribunal for 2002

31. The President of the Tribunal introduced the draft budget of the Tribunal for 2002 (SPLOS/WP.13). He emphasized that in making its budget proposals, the Tribunal had scrupulously followed the evolutionary approach. The proposals were based on the principle of zero growth of the overall budget. Moreover, compared to the approved budget for 2001, there was a decrease of about $0.28 million in the proposed budget for 2002, which had been made possible through the use of the latest version of the United Nations standard salary costs for calculating the budgetary estimates in respect of the staffing requirements.

32. The budget proposals were first considered in an open-ended Working Group under the chairmanship of the President of the Meeting. The Working Group deliberated on the overall budget proposals and also carried out an item-by-item examination. It agreed on the draft budget of the Tribunal for 2002, as proposed by the Tribunal in document SPLOS/WP.13. On the basis of the agreement in the Working Group (SPLOS/L.20), the Meeting approved the budget of the Tribunal for 2002, which is contained in document SPLOS/70.

33. The approved budget amounted to a total of $7,807,500, including:

(a) A recurrent expenditure of $6,522,400, consisting of:

(i) $1,808,100 for the remuneration, travel and pension of judges;

(ii) $2,916,900 for salaries and related costs of staff (15 posts at the Professional level and above and 21 posts at the General Service level);

(iii) $252,600 for general temporary assistance, overtime, representation allowance and official travel;

(iv) $129,100 for temporary assistance for meetings;

(v) $1,415,700 for other items, including communications, supplies and materials, printing and binding, maintenance of premises, rental and maintenance of equipment, hospitality, special services, library, training, and miscellaneous services;

(b) A non-recurrent expenditure of $340,800, essentially for the acquisition of furniture, equipment and special equipment.

With a view to providing the Tribunal with the necessary financial means to consider cases in 2002, the Meeting of States Parties approved $894,300 as contingency funds of the Tribunal, which shall only be used in the event of cases being submitted to the Tribunal during that period. The contingency funds include an amount intended to meet the compensation of a judge ad hoc when required. The Meeting also approved an additional amount of $50,000 to be appropriated to the Working Capital Fund of the Tribunal in 2002 in order to build up the Fund to the recommended level of $650,000.

34. The budget of the Tribunal in 2002, including its contingency funds and the appropriations to its Working Capital Fund, is to be financed by all States and international organizations that are Parties to the

United Nations Convention on the Law of the Sea. These contributions to be made by States Parties are to be based upon the scale of assessments for the regular budget of the United Nations for the corresponding financial year, adjusted to take account of participation in the Convention. The Meeting of States Parties decided that a floor rate of 0.01 per cent and a ceiling rate of 25.00 per cent would be used in establishing the rate of assessment for States Parties for the budget of the Tribunal in 2002. The European Community indicated that its contribution to the budget would be proportionate to the approved budget and would amount to $77,000.

35. One delegation proposed that contributions made by States Parties to the budget of the Tribunal should be subject to a floor rate of 0.01 per cent and a ceiling rate of 22.00 per cent. That would reflect a recently adopted change to the scale of assessments for the regular budget of the United Nations. Following a brief discussion on the proposal, it was decided that the issue would be taken up again at the twelfth Meeting of States Parties.

36. With respect to the level of compensation for judges ad hoc, the Meeting had before it a working paper prepared by the Tribunal (SPLOS/WP.15), in which it was proposed that the level of compensation for judges ad hoc should be consistent with the level of remuneration of elected members of the Tribunal. The Meeting adopted the proposal.

C. Financial Regulations of the Tribunal

37. The Financial Regulations of the Tribunal (SPLOS/36) had generated considerable discussions since the President of the Tribunal had introduced them during the ninth Meeting of States Parties. A number of oral and written proposals had been submitted by delegations during that Meeting and during the tenth Meeting in 2000. While some of the proposals had attracted broad support, further deliberations were required in respect of others. In that regard, the tenth Meeting had requested the Secretariat and the Registry of the Tribunal to prepare a revised version of the Financial Regulations, taking into account the various proposals and the outcome of the discussions during the ninth and tenth Meetings. In view of the number of outstanding issues, the Secretariat, in consultation with the Registry, decided that a working paper would better serve the discussions at the eleventh Meeting. Following the preparation of the working paper by the Secretariat (SPLOS/WP.14), the proposals attributed to the Tribunal in the working paper were withdrawn by the Tribunal. This is reflected in document SPLOS/WP.14/Corr.1.

38. The working paper was discussed in an open-ended Working Group, which was chaired by the President. The Working Group held three meetings. In considering the working paper, delegations took into account additional proposals submitted by Germany (SPLOS/CRP.27) and the European Community, Germany and Japan (SPLOS/CRP.28) and an informal proposal presented by Japan on regulations 5.2 and 5.3. The latter proposal was deferred for discussion until the next Meeting, since it was linked to the discussions on the scale of assessments for the budget of the Tribunal (see para. 35 above). The Working Group was able to reach a tentative agreement on most of the outstanding provisions in regulations 1 to 5. The proposals made in reference to a finance committee were withdrawn in view of the decision taken by the Meeting regarding the establishment of an open-ended working group on financial and budgetary matters (see paras. 49-50 below).

39. One of the pending issues relating to the Financial Regulations is a proposal put forward by Germany during the tenth Meeting that a "split currency system" should be used in the presentation of the budget, i.e., United States dollars and euros. While some delegations supported this view, others expressed a preference for the presentation of the budget in United States dollars, which was considered to be a more stable currency.

40. Owing to time constraints, the Meeting was not able to conclude the consideration of the working paper and will take up the item again at its twelfth Meeting. At the end of the Meeting, the President circulated an informal paper dated 18 May 2001, containing the regulations that had been tentatively agreed upon by the Working Group. In view of a number of references made by delegations to the Financial Regulations of the International Seabed Authority and of the United Nations, and in order to further facilitate the consideration of the Financial Regulations of the Tribunal at the next Meeting, the President suggested that the Secretariat prepare a comparative table of the Financial Regulations of the three institutions.

D. Report of the External Auditors and financial statements of the Tribunal for 1999

41. The report of the External Auditors for the financial year 1999 was initially made available to the tenth Meeting of States Parties (SPLOS/53) in 2000. Following an introduction by the Registrar, the eleventh Meeting of States Parties considered and took note of the report.

E. Election of one member of the Tribunal

42. As a result of the passing away on 10 October 2000 of Judge Lihai Zhao of China, whose term of office would have ended on 30 September 2002, a vacancy occurred in the Tribunal. In accordance with article 6, paragraph 1, of the Statute of the Tribunal, vacancies shall be filled by the same method as that laid down for the first election of the members of the Tribunal. Article 6, paragraph 2, of the Statute provides that a member of the Tribunal elected to replace a member whose term of office has not expired shall hold the office for the remainder of the predecessor's term.

43. An invitation calling for nominations was addressed to all States Parties in accordance with the provisions of the Statute. One candidate, Mr. Xu Guangjian, was nominated by China. The election was scheduled to take place on 16 May 2001 based on consultations carried out by the President of the Tribunal and the President of the tenth Meeting of States Parties.

44. There was only one round of balloting, during which the representatives of Belize, Croatia, Papua New Guinea, Senegal and Sweden acted as tellers. Out of 94 delegations present and voting, a majority of 62 was required for election. Mr. Xu Guangjian obtained 92 votes, with 1 abstention and 1 invalid vote cast, and was elected to serve the remainder of the term of the late Judge Lihai Zhao. On behalf of the Meeting of States Parties, the President congratulated Mr. Xu Guangjian on his election.

V. Rules of procedure for Meetings of States Parties

A. Proposed amendment to rule 53 (Decisions on questions of substance)

45. The Meeting continued its discussion on a proposed amendment to rule 53 of the Rules of Procedure for Meetings of States Parties on the basis of a revised proposal submitted by the United Kingdom (SPLOS/CRP.20/Rev.1). The proposal provided for decisions on budgetary and financial matters to be taken by a three-fourths majority of States Parties present and voting, provided that such majority included a majority of States Parties participating in the Meeting.

46. Many delegations expressed reservations with respect to the proposed change to rule 53. In the light of the views expressed, the United Kingdom decided to withdraw its proposal.

B. Proposal to establish a finance committee

47. The Meeting also considered a proposal by Germany (SPLOS/CRP.26) regarding the addition of a new rule 53bis providing for the establishment of a finance committee at each Meeting of States Parties at which financial and budgetary matters would be discussed. The finance committee would serve as a subsidiary body to the Meeting to review the proposed budget of the Tribunal and make recommendations to the Meeting.

48. During the discussions, many delegations reiterated the views expressed during the tenth Meeting. While some delegations were of the view that a finance committee would expedite the work of the Meeting of States Parties, others maintained that there was no need for such a committee since the practice adopted so far for the consideration of the budget had worked very well, as exemplified by the timely manner in which the budget proposal of the Tribunal for 2002 had been approved.

49. The President decided to draft a compromise text reflecting the various views expressed (SPLOS/L.21). The text was adopted by consensus as a new rule 53bis of the Rules of Procedure for Meetings of States Parties (SPLOS/71).

50. Rule 53bis requires that an open-ended working group be established as a matter of priority during the Meetings of States Parties at which financial and budgetary matters will be discussed. The open-ended working group, to be chaired by the President of the Meeting, will review the proposed budget of the Tribunal and make recommendations to the Meeting. Decisions on budgetary and financial matters taken by the Meeting shall be based on those recommendations.

VI. Information on the activities of the International Seabed Authority

51. At the ninth Meeting of States Parties, it had been agreed that the Secretary-General of the International Seabed Authority would be given an opportunity to address the Meetings of States Parties and provide information with respect to the activities of the Authority.

52. Pursuant to that decision and in accordance with rule 37 of the Rules of Procedure for Meetings of States Parties, the Secretary-General of the Authority, Satya Nandan, reported to the eleventh Meeting on recent developments with respect to the work of the Authority. He stated that the main achievement of the Assembly of the Authority during the sixth and the resumed sixth sessions in 2000 was the approval of the Regulations for Prospecting and Exploration for Polymetallic Nodules in the Area on the recommendations of the Council.

53. Following the adoption of the Regulations, draft contracts for exploration had been prepared in respect of each of the seven registered pioneer investors whose plans of work for exploration were considered to be approved by the Council on 27 August 1997. Fifteen-year contracts with three of the seven pioneer investors had already been signed, while another was scheduled for signature on 22 May 2001. The three other contracts would be signed in the near future.

54. Recalling that a request had been submitted to the Authority in August 1998 with respect to the adoption of regulations for exploration for polymetallic sulphides and cobalt-rich crusts, the Secretary-General of the Authority noted that, pursuant to article 162, paragraph 2 (o) (ii), of the Convention, such rules, regulations and procedures would need to be adopted within three years from the date of the request. In that regard, the secretariat of the Authority had commenced work in 1999 on a review of the status of knowledge and research on the resources concerned. In June 2000, the Authority convened a workshop, the third in a series, the objective of which was to provide technical information to assist in drafting regulations for prospecting and exploration for these mineral deposits. The proceedings of the workshop would contain technical papers on the geology and mineralogy of polymetallic sulphides and cobalt-rich crusts, their distribution and resource potential, as well as the status of research on such resources and the technical requirements for their exploration and future mining.

55. He stated that the Legal and Technical Commission of the Authority had continued its consideration of draft recommendations for the assessment of the possible environmental impacts arising from exploration for polymetallic nodules. The recommendations would elaborate procedures to be followed in the acquisition of baseline data by contractors, including the monitoring to be performed during or after any activities with the potential to cause serious harm to the environment, and would also facilitate reporting by contractors.

56. With respect to the budget of the Authority, he noted that 34 per cent of the assessed contributions to the 2001 budget and 97 per cent of the contributions to the budget for 2000 had been received. However, he expressed concern that, as of 30 April 2001, 68 members of the Authority were in arrears of contributions for a period exceeding two years. In accordance with the Convention and the Rules of Procedure of the Assembly of the Authority, members whose arrears equalled or exceeded the amount of their assessed contributions for the preceding two full years would lose their vote. He urged all members of the Authority to pay their assessed contributions and arrears as soon as possible.

57. He encouraged States to become parties to the Protocol on the Privileges and Immunities of the International Seabed Authority, noting that only 4 of the 10 instruments of ratification or accession required for its entry into force had been deposited.

58. In conclusion, noting that the lack of a quorum could hamper the taking of decisions, he encouraged as many delegations as possible to participate in the upcoming seventh session of the Authority, where, among other things, elections would be held to the

Legal and Technical Commission and to the Finance Committee.

59. The Meeting took note, with appreciation, of the report of the Secretary-General of the Authority.

VII. Matters related to the continental shelf and the Commission on the Limits of the Continental Shelf

A. Statement by the Chairman of the Commission on the Limits of the Continental Shelf

60. The President invited the Chairman of the Commission on the Limits of the Continental Shelf, Yuri Kazmin, to provide any additional information on the matters contained in the letter dated 30 April 2001 (SPLOS/65) addressed to him and on the recent activities of the Commission. He pointed out that because the Commission had not been established at the time when the Meeting of States Parties had adopted its Rules of Procedure no formal relationship existed between the Meeting of States Parties and the Commission as it did with the other two entities established by the Convention, namely the International Tribunal for the Law of the Sea and the International Seabed Authority, which enjoyed observer status. Since States Parties had displayed great interest in the activities of the Commission, the President was of the view that the Meeting of States Parties might wish to establish such a relationship and grant observer status to the Commission.

61. The Chairman of the Commission pointed out that the Commission was an autonomous body established by the Convention with no formal accountability to the Meeting of States Parties. However, he was of the view that that was a procedural issue that could be resolved in the course of time. He pointed out that in its own Rules of Procedure, the Commission had provided for consultations with the States Parties on certain issues. He noted, for example, that the States Parties had been consulted on the issue of submissions in cases of unresolved land or maritime disputes.

62. He was particularly grateful for the successful role played by the Meeting of States Parties in the establishment of two voluntary trust funds requested by the Commission. The first one had been established to provide training and technical and scientific advice, as well as personnel, to assist developing States, in particular the least developed and small island developing States, for the purpose of preparing submissions under article 76 and annex II to the Convention in accordance with the procedures of the Scientific and Technical Guidelines of the Commission. The second one had been created to defray the costs of participation of the members of the Commission from developing States to enable them to attend the meetings of the Commission.

63. The Chairman of the Commission called the attention of the Meeting of States Parties to the activities of the Commission as presented in his letter to the President of the Meeting. He drew attention to annex I of the Rules of Procedure of the Commission, concerning submissions in case of a dispute between States with opposite or adjacent coasts or in other cases of unresolved land or maritime disputes. The Commission had also adopted its modus operandi (CLCS/L.3) and, more significantly, its Scientific and Technical Guidelines (CLCS/11 and CLCS/11/Add.1 and Corr.1), the aim of which was to assist coastal States in dealing with the technical content and extent of information necessary to prepare submissions to the Commission.

64. He recalled that the Commission in May 2000 had held an open meeting to highlight the most important issues regarding the implementation of article 76 of the Convention. At the meeting, which had been attended by approximately 100 participants, representing Governments, intergovernmental organizations and other experts in marine science, members of the Commission had made presentations and exchanged views with the participants.

65. While no submissions had been made to date, it was the Chairman's understanding that some States had reached a fairly advanced stage in the preparation of their submissions. Referring to the 10-year time period established by the Convention for making submissions to the Commission, he appreciated that the determination of the outer limits of the continental shelf was a complicated task, particularly for developing States. In that respect, he emphasized the need to train the appropriate staff to enable States to carry out the activities entailed in preparing their submissions. In addition to the Scientific and Technical Guidelines, the Commission had prepared an outline

for a five-day training course (CLCS/24) designed to assist in the preparation of submissions. That outline, together with the relevant documents prepared by the Commission and the establishment of the trust fund, provided a good basis on which training could be organized. He emphasized, however, that the mandate of the Commission did not include the conduct of training. It was therefore up to States, international or regional organizations and any other institutions to take the initiative in that area. One such initiative had recently been taken by a scientific institution in the United Kingdom, which had held one seminar based on the outline for a five-day training course and on the Scientific and Technical Guidelines of the Commission. In conclusion, the Chairman emphasized the necessity of presenting submissions within the 10-year time frame set by the Convention.

66. The Meeting of States Parties took note, with appreciation, of the statement of the Chairman of the Commission.

B. Issues with respect to article 4 of annex II to the United Nations Convention on the Law of the Sea

67. Under article 4 of annex II to the Convention, a coastal State intending to establish the outer limits to its continental shelf beyond 200 nautical miles is obligated to submit particulars of such limits to the Commission on the Limits of the Continental Shelf along with supporting scientific and technical data as soon as possible but in any case within 10 years of the entry into force of the Convention for that State.

68. At the tenth Meeting of States Parties, concerns had been voiced by developing States regarding the difficulty of complying with the time limit in article 4 of annex II to the Convention. The Meeting had expressed general support for the concerns raised and decided to include in the agenda for the eleventh Meeting the item "Issues with respect to article 4 of annex II to the United Nations Convention on the Law of the Sea". It also requested the Secretariat to prepare a background paper on the matter.

69. In addition to the document prepared by the Secretariat (SPLOS/64), the eleventh Meeting of States Parties also had before it notes verbales from the Government of Seychelles regarding the extension of the time period for submissions to the Commission (SPLOS/66) and a position paper (SPLOS/67) on the time frame for submissions put forward by the following States members of the Pacific Island Forum: Australia, Fiji, Marshall Islands, Micronesia (Federated States of), Nauru, New Zealand, Papua New Guinea, Samoa, Solomon Islands, Tonga and Vanuatu.

70. The representative of the Federated States of Micronesia, introducing the position paper, emphasized the complexity of the task of preparing submissions to the Commission on the Limits of the Continental Shelf, which required significant resources, capacity and expertise to carry out the necessary activities such as the collection, collation and analysis of a large amount of bathymetric, seismic and geophysical data. He pointed out that a crucial theme of the Convention was that developing States should not, through lack of resources or capacity, be disadvantaged in respect of access to or use of their resources. Therefore, it would be inconsistent with the general approach of the Convention if developing States were unable to define the limits of their extended continental shelf owing to a lack of resources or capacity. In that regard, he emphasized that the Convention contained important provisions on transfer of technology so as to ensure that developing States were able to exercise their rights and fulfil their obligations under the Convention.

71. He emphasized that many countries would not be able to make a submission within the 10-year time frame stipulated in the Convention for reasons of capacity, financial and technical resources; the lack of settlement of key jurisdictional boundaries and the complexity of the technical issues involved. Furthermore, States had had a clear idea of how to prepare their submissions only after the Commission had adopted its Scientific and Technical Guidelines on 13 May 1999. The representative recalled that the election of the members of the Commission had not taken place until May 1997, nearly three years after the entry into force of the Convention. In the light of the foregoing, the Pacific Island Forum States proposed the following:

(a) That the States Parties agree to extend the 10-year period prescribed in annex II, such an extension to be agreed through a decision of the Meeting of States Parties or through an understanding on the interpretation of annex II;

(b) Such an understanding would include an agreement that the 10-year period would not begin to

run for any State Party, regardless of its date of ratification or accession, until the date of adoption of the Commission's Guidelines;

(c) The time for making a submission would be further extended beyond 10 years where a State Party had been unable, for technical reasons, including lack of technical capacity, to comply in good faith with the time limitation (SPLOS/67, para. 8).

72. Many delegations agreed that the development and strengthening of the capabilities of developing States, including small island developing States, in order to enable them to benefit fully from the legal regime for the oceans as established by the Convention, was an issue of crucial importance. They supported the arguments put forward in the position paper of the Pacific Island Forum States that the Meeting of States Parties should consider issues with respect to article 4 of annex II and take such a decision on the starting date for the calculation of the 10-year time period for making submissions, which would ameliorate the difficulty in complying with the 10-year deadline envisaged in the Convention.

73. The Meeting generally supported a step-by-step approach to the issues raised with respect to article 4 of annex II to the Convention. The first step was to address the issue of selecting the date for calculating the 10-year time limit, which could be done at the present Meeting of States Parties. The second step was to deal with the issue of a possible extension of the 10-year time limit, which required a sound legal solution on the substance of the matter and on the procedures to be followed.

74. Many delegations agreed that the starting date should be 13 May 1999, the date of adoption of the Scientific and Technical Guidelines, which also marked the completion of the three basic documents of the Commission; the other two being its Rules of Procedure and its modus operandi. They pointed out that the Guidelines gave clear and detailed guidance to States as to the procedures to be followed in the preparation of submissions to the Commission and to the particulars that would be expected to be included in such submissions. One delegation emphasized that the adoption of the Guidelines was not a prerequisite or a condition for making submissions by States, and that States should avoid taking on any additional obligations not included in the Convention.

75. Some delegations pointed out that there was no legal consequence stipulated by the Convention if a State did not make a submission to the Commission. Several delegations underscored the principle that the rights of the coastal State over its continental shelf were inherent, and that non-compliance with the 10-year time period specified in article 4 of annex II would not adversely affect those rights, which did not depend on occupation, effective or notional, or any express proclamation, as stated in article 77, paragraph 3, of the Convention.

76. On the issue of a possible further extension beyond 10 years of the time period for making submissions to the Commission, as proposed by the Pacific Island Forum States (SPLOS/67, para. 8 (c)), several delegations recognized that such an extension would accommodate the needs of developing countries, which lacked the requisite expertise and resources to fulfil the requirements of article 4 of annex II within the prescribed period. A number of other delegations were of the view that at the current stage the adoption of the decision that the 10-year period would not begin to run for any State Party, regardless of its date of ratification or accession, until the date of adoption of the Commission's Guidelines, would have already ameliorated substantially the situation for the first group of States by extending their deadline, in fact, for an additional five years. The delegations agreed that meanwhile further discussions were needed on the issue of the ability of States, particularly developing States, to fulfil the requirements of article 4 of annex II to the Convention.

77. Some delegations were of the view that a coastal State which for economic, financial or technical reasons was able to make only a partial submission within the 10-year time period should be viewed as having complied with the requirements of article 4 of annex II to the Convention.

78. The procedural issue of how to give effect to any decision extending the 10-year time period was also discussed. Four possible procedures were put forward. They were similar to what was outlined in the background paper by the Secretariat (SPLOS/64, paras. 71-75):

(a) An amendment in accordance with article 312 of the Convention;

(b) An amendment by means of the simplified procedure provided for in article 313;

(c) An agreement relating to the implementation of article 4 of annex II to the Convention;

(d) A decision by the Meeting of States Parties along the lines of the procedure used by the Meeting regarding the postponement of the election of the members of the Tribunal and of the members of the Commission on the Limits of the Continental Shelf.

79. Many delegations were of the view that it fell within the competence of the Meeting of States Parties to adopt by consensus a decision expressing general agreement on the starting date for calculating the 10-year time period. Such a decision, they stated, would be of a procedural nature similar to the ones the Meeting had taken with respect to the postponement of the election of members of the International Tribunal for the Law of the Sea and that of the members of the Commission. However, one delegation was of the view that the issue of the starting date was of direct relevance to the rights and obligations of States Parties to the Convention and therefore could not be considered as simply procedural.

80. With respect to a possible decision, the Chairman of the Commission on the Limits of the Continental Shelf stated that the 10-year deadline was a matter that fell within the competence of States; the Commission would be guided by whatever deadline was decided upon by the States Parties on the condition that the decision was legally correct. In response, some delegations, while acknowledging the independent nature of the Commission, pointed out that the Commission had been established by the Convention, of which the States Parties were the custodians. In that regard, they underscored the importance of any decision taken by the Meeting of States Parties on the matter.

81. In the light of the discussions and of a proposal put forward by Papua New Guinea, an open-ended Working Group was convened by the President. A draft decision was prepared by the Group (SPLOS/L.22), which was subsequently adopted by the Meeting of States Parties (SPLOS/72). The decision provides that, for a State for which the Convention entered into force before 13 May 1999, the date of commencement of the 10-year time period for making submissions to the Commission is 13 May 1999.

82. There was general agreement that States that were in a position to do so should make every effort to make submissions within the time period established by the Convention. In that regard, it was pointed out that the deferral of the deadline should not place an undue burden on those States that were ready to make their submissions by requiring them to present new data at that time.

83. Many delegations pointed out that the issue of training and transfer of technology was closely linked to the discussions on the time period for making submissions to the Commission. Some stated that capacity-building was of vital importance irrespective of the decision on the starting date for the 10-year period and a possible decision on the extension of that period.

84. Many delegations noted with satisfaction the establishment of a trust fund and the contribution that had been made to it so far (see paras. 94 and 95 below). They expressed the hope that further contributions would be made to the fund. Referring to the statement by the Chairman of the Commission on the lack of a mandate on the part of the Commission to conduct training, some delegations emphasized the need for the relevant institutions to actively support training activities. It was suggested that cooperation between the Commission, regional centres of excellence and the United Nations University should be pursued.

VIII. Matters related to article 319 of the United Nations Convention on the Law of the Sea

85. At the tenth Meeting, Chile had proposed that the Meeting of States Parties consider issues relating to the implementation of the Convention and that, to that end, the Meeting should receive a report every year from the Secretary-General on issues of a general nature that had arisen with respect to the Convention (see SPLOS/CRP.22 and SPLOS/60, paras. 73-78).

86. On the issue of reporting, the Under-Secretary-General for Legal Affairs, The Legal Counsel, Hans Corell, made a statement at the opening of the Meeting of States Parties on the mandate given to the Secretary-General by the General Assembly with regard to the preparation of comprehensive reports on developments relating to the implementation of the Convention, the law of the sea and ocean affairs, as reflected in the relevant General Assembly resolutions. He recalled that in paragraph 15 of its resolution 49/28 of

6 December 1994 the General Assembly had specified that the Secretary-General should prepare annually a comprehensive report, for the consideration of the General Assembly, on developments relating to the law of the sea which could also serve as a basis for reports to all States Parties to the Convention, the International Seabed Authority and competent international organizations, which the Secretary-General was required to provide under article 319 of the Convention. He highlighted the comprehensive nature of the issues addressed in the most recent report of the Secretary-General on oceans and the law of the sea (A/56/58), which included those that had arisen with respect to the Convention. He noted also that, in addition to the report of the Secretary-General, the three institutions established under the Convention, namely the International Tribunal for the Law of the Sea, the International Seabed Authority and the Commission on the Limits of the Continental Shelf, also reported to the Meeting of States Parties.

87. Some delegations stated that the responsibility of the Secretary-General to report on matters of a general nature was clearly established in article 319, paragraph 2 (a), of the Convention and that the Secretary-General should submit a report to the Meeting of States Parties, as he had in 1996 (SPLOS/6). One delegation pointed out that in doing so, the Secretary-General should draw the attention of the States Parties to issues that had arisen with regard to the Convention, including issues of non-conformity with its provisions. However, some delegations were of the view that the role of the Secretary-General was not to raise issues of non-conformity with the Convention, particularly with respect to national laws; only States Parties should consider such matters.

88. Many delegations expressed their support for an expanded role for the Meeting of States Parties beyond budgetary and administrative matters. In their view, the Meeting had the competence to discuss issues of implementation of the Convention bearing in mind the need to avoid duplication with the work in other forums. The decision regarding the date of commencement of the 10-year period for making submissions to the Commission on the Limits of the Continental Shelf was cited by some as an example of the role that the Meeting of States Parties had already played in the implementation of the Convention. The Meeting also provided an opportunity to examine reports on the activities of the International Seabed Authority, the Commission on the Limits of the Continental Shelf and the International Tribunal for the Law of the Sea and, as one delegation pointed out, to make recommendations to the General Assembly. Another delegation expressed the view that arguments in favour of a more substantive role for the Meeting of States Parties did not represent an attempt to give the Meeting decision-making powers not provided for in the Convention.

89. Other delegations stated that the interpretation of article 319 of the Convention did not support an expanded role for the Meeting of States Parties. The mandate of the Secretary-General in article 319, paragraph 2 (e), to convene necessary meetings of States Parties was qualified in two respects: first, it was limited to meetings that were "necessary"; and secondly, the mandate was linked to the provisions of the Convention, which clearly specified the matters to be considered by Meetings of States Parties, i.e., the election of the members of the Commission on the Limits of the Continental Shelf, the election of the members of the Tribunal and the consideration and approval of the budget of the Tribunal. In their view, no other provisions of the Convention either required action or acknowledged the possibility of action by the Meeting of States Parties. A strict reading of the text of article 319, paragraph 2 (e), therefore suggested that the provision should not be interpreted to mandate or authorize the Secretary-General to convene a Meeting of States Parties for the purpose of undertaking a far-reaching review of general matters related to the Convention. Moreover, the negotiating history of the article demonstrated that proposals to establish a mechanism for the periodic review of the Convention had failed to attract sufficient support. If the drafters had intended to do so, they would have, as in the case of other conventions, expressly provided for a monitoring and review role for the Parties. In addition, the implementation of the Convention involved a number of United Nations bodies and the General Assembly was the only forum with the overall competence to review the implementation of the Convention. Furthermore, the Assembly had established the Consultative Process in order to facilitate its annual review of developments in ocean affairs.

90. While recognizing the oversight role of the General Assembly, a number of delegations expressed the view that the Meeting of States Parties nevertheless

had the right to discuss issues of implementation of the Convention, since it was, as one delegation stated, an autonomous body and the "supreme organ" for the implementation of the Convention. Another delegation expressed the view that, since the Consultative Process only dealt with ocean affairs, it would be necessary for the Meeting of States Parties in the future to decide on legal issues regarding the implementation of the Convention. On the relationship between the Meeting of States Parties and the Consultative Process, some delegations explained that issues of implementation of the Convention might be raised at the Process, following which they might need to be addressed by the Meeting.

91. With regard to the future work of the Meeting of States Parties, a number of delegations expressed their support for the proposal of Chile to include an agenda item entitled "Implementation of the United Nations Convention on the Law of the Sea". One delegation, noting that the Meeting of States Parties would not need to examine all issues of implementation, suggested instead the title "Issues which require consideration by the Meeting of States Parties". Another delegation proposed that any State Party wishing to include an item in the agenda of the Meeting should first circulate the proposal, through the Secretary-General, to all Parties before the next Meeting. The Meeting of States Parties would then decide whether or not to discuss the item. However, other delegations stated that they did not see the need for a special item on the implementation of the Convention and that States could raise any issue they deemed relevant under the agenda item entitled "Other matters".

92. In the light of the various views expressed, the Meeting of States Parties decided to retain the current agenda item entitled "Matters related to article 319 of the United Nations Convention on the Law of the Sea" for its next Meeting.

IX. Other matters

A. Trust funds

93. The tenth Meeting of States Parties had decided to recommend to the General Assembly at its fifty-fifth session, the establishment of three trust funds to be financed through voluntary contributions (SPLOS/60, paras. 47, 57 and 60).

94. The President informed the Meeting that the establishment of all three trust funds had been approved by the General Assembly at its fifty-fifth session (resolution 55/7, paras. 9, 18, 20) and the funds were now established and operational. The trust funds are as follows: (a) a voluntary trust fund to assist States in the settlement of disputes through the International Tribunal for the Law of the Sea; (b) a voluntary trust fund to provide training for technical and administrative staff, and technical and scientific advice, as well as personnel, to assist developing States, in particular the least developed countries and small island developing States, for the purpose of desktop studies and project planning, and preparing and submitting information under article 76 and annex II to the Convention in accordance with the procedures of the Scientific and Technical Guidelines of the Commission on the Limits of the Continental Shelf; and (c) a voluntary trust fund for the purpose of defraying the costs of participation of the members of the Commission on the Limits of the Continental Shelf from developing States in the meetings of the Commission.

95. The President also informed the Meeting that the United Kingdom had made two contributions to the trust fund for the International Tribunal for the Law of the Sea and that Norway had made a contribution to the trust fund to provide training for technical and administrative staff and to provide technical and scientific advice as well as personnel, to assist developing countries to prepare submissions and submit information under article 76 and annex II to the Convention.

96. On behalf of the Meeting of States Parties, the President thanked both Governments for their generous contributions and urged other States to make contributions to the trust funds.

B. Statement by a representative of a non-governmental organization regarding seafarers

97. In accordance with rule 18, paragraph 4, of the Rules of Procedure for Meetings of States Parties (SPLOS/2/Rev.3/Add.1), the Seamen's Church Institute was invited by the Meeting to participate as an

observer. In his statement, the representative of the Institute drew attention to the problems currently faced by seafarers, in particular the growing threat of pirate attacks, abandonment and the erosion of traditional seafarers' rights. With a particular focus on the latter two issues, he pointed out that crews were often abandoned by insolvent shipowners and that there had also been cases where the crews had been unfairly detained in response to pollution incidents because the shipowner had not paid the coastal State concerned. Abandonment was devastating to crews, who in many cases could not afford to pay litigation costs and legal fees or support themselves during protracted legal procedures that would be required to avail themselves of the protection of the law. Many crews were abandoned in ports where there was insufficient community support to sustain them or where the legal system could not provide effective relief.

98. The representative of the Seamen's Church Institute also expressed concern about recent trends that attempted to dilute the traditional rights of seafarers to free medical care. In one case a mariner had been deprived of basic medical care and had been left to die under circumstances that appeared to be motivated by financial considerations. When the health, safety or welfare of mariners was in jeopardy, the international community looked to the United Nations Convention on the Law of the Sea to protect them. The most fundamental function of the Convention was to provide order and predictability for people in the marine sector. When one flag State did not honour its obligations under the Convention, all States Parties were affected. In such situations, and especially those where persons' rights were involved, the community of nations, as well as individual States, had to step in to protect the seas' most valuable resource: the human beings who live and work on ships.

C. Statement by the President at the closure of the eleventh Meeting of States Parties

99. In his closing statement, the President reviewed the work that had been achieved during the Meeting. He noted that Judge Xu Guangjian from China had been elected to serve the remainder of the term of Judge Lihai Zhao. The budget of the Tribunal for 2002 had been adopted very expeditiously owing to the excellent proposal prepared by the Tribunal and the cooperation of all delegations. The Meeting had also approved the level of compensation for judges ad hoc of the Tribunal. The proposal by Japan concerning the adjustment of the scale of assessments for contributions to the budget of the Tribunal would be taken up at the next Meeting. The President drew attention to the need to ensure that the assessed contributions to the Tribunal were paid in full and in a timely fashion, so that the Tribunal could discharge its functions effectively and efficiently. The same also applied in respect of the payment of assessed contributions to the International Seabed Authority.

100. Good progress, he noted, had been made on outstanding issues relating to the Rules of Procedure for Meetings of States Parties. A new rule had been adopted providing for an open-ended working group on financial and budgetary matters, which would make recommendations to the Meeting. The Meeting also had made progress with regard to the Financial Regulations of the Tribunal. However, owing to time constraints, it would be necessary to take up the item again at the next Meeting.

101. The President observed that the Meeting had had an extremely interesting discussion on the 10-year time period for making submissions to the Commission on the Limits of the Continental Shelf. Noting the adoption of the Scientific and Technical Guidelines on 13 May 1999 and bearing in mind the difficulties encountered by some States, in particular developing States, in complying with their obligations under article 4 of annex II to the Convention, the Meeting had decided that in the case of a State Party for which the Convention entered into force before 13 May 1999, the 10-year period was taken to have commenced on 13 May 1999. He stressed that States that were in a position to do so should make every effort to make their submission to the Commission as soon as possible.

102. The discussions on the issue of the extension of the 10-year period had clearly indicated that a more in-depth consideration was necessary. The decision of the Meeting to keep under review the more general issue of the ability of States, particularly developing States, to fulfil the requirements of article 4 of annex II reflected the discussions on the matter.

103. The President highlighted the importance of training to enable States to prepare their submissions to

the Commission. Recalling what the Chairman of the Commission had said regarding the need for interested Governments and relevant scientific organizations to provide training, the President noted that the Meeting of States Parties should explore the ways and means of organizing training.

104. He noted that an interesting discussion had taken place on matters related to article 319 of the Convention. Although there were opposing views, many delegations had supported an expanded role for the Meeting of States Parties.

105. He also noted the statement by the representative of the Seamen's Church Institute and thanked him for drawing the attention of the Meeting to the plight that seafarers often faced.

106. The President outlined the agenda items for the twelfth Meeting (see para. 109 below) and noted that the year 2002 would mark the twentieth anniversary of the signing of the Convention. He stated that he would consult on how the Meeting could commemorate the occasion.

107. In closing, he thanked all delegations for their cooperation and assistance. He also offered his best wishes to Mr. Gritakumar Chitty, the outgoing Registrar of the Tribunal, and to his family.

D. Dates and programme of work for the twelfth Meeting of States Parties

108. *The twelfth Meeting of States Parties will be held* in New York from 13 to 24 May 2002.

109. The twelfth Meeting will have on its agenda, inter alia, the following items:

(a) Report of the International Tribunal for the Law of the Sea to the Meeting of States Parties covering the calendar year 2001 (rule 6 of the Rules of Procedure for Meetings of States Parties);

(b) Draft budget of the International Tribunal for the Law of the Sea for 2003;

(c) Scale of assessments for the contribution of States Parties to the budget of the International Tribunal for the Law of the Sea;

(d) Consideration of the Financial Regulations of the International Tribunal for the Law of the Sea;

(e) Report of the External Auditors for the financial year 2000, with financial statements of the International Tribunal for the Law of the Sea as of 31 December 2000;

(f) Election of seven members of the International Tribunal for the Law of the Sea;

(g) Election of 21 members of the Commission on the Limits of the Continental Shelf;

(h) Issues with respect to article 4 of annex II to the United Nations Convention on the Law of the Sea;

(i) Matters related to article 319 of the United Nations Convention on the Law of the Sea;

(j) Other matters.